

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MIKUS, TODD, et al.,

Plaintiffs,

-v-

THE COUNTY OF DUTCHESS, NEW YORK

AND

THE DUTCHESS COUNTY SHERIFF'S
DEPARTMENT OF DUTCHESS COUNTY,
NEW YORK

AND

ADRIAN H. ANDERSON, SHERIFF OF
THE COUNTY OF DUTCHESS, NEW YORK

Defendants.

VERIFIED ANSWER

CASE NO.
08 CV 3682

ASSIGNED JUDGE
Hon. Charles L. Briant
(LMS)

Defendants, COUNTY OF DUTCHESS, THE DUTCHESS COUNTY SHERIFF'S DEPARTMENT OF DUTCHESS COUNTY, NEW YORK and ADRIAN H. ANDERSON, SHERIFF OF THE COUNTY OF DUTCHESS, NEW YORK, by their attorney, RONALD L. WOZNIAK, County Attorney, by KEITH P. BYRON, Senior Assistant County Attorney, answering Plaintiff's Complaint, states as follows:

1. Deny each and every allegation contained in the paragraphs thereof designated "7", "8", "9", "12", "13", "14", "15", "16", "19", "20", "21", "22", and "23".

2. Deny so much of paragraph "17" as alleges that defendants failed to pay overtime compensation and respectfully refer all matters of law to the court for resolution.

3. Deny so much of paragraph "24" as alleges that defendants failed to pay overtime compensation and respectfully refer all matters of law to the court for resolution.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

4. All employees are permitted to utilize compensatory time within a reasonable time after a request.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

5. Dutchess County is required to maintain minimum staffing levels by the New York State Commissioner of Correction. Schedules are prepared to maintain minimum staffing levels. Currently, minimum staffing levels can only be met through the use of mandatory or forced overtime. Defendants cannot meet the minimum staffing requirements if Plaintiffs are granted the relief they request and as a consequence, the use of compensatory time would be unduly disruptive.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

6. Vastly expanded mandatory overtime would be required to permit Plaintiffs the unfettered use of compensatory time. Such use of mandatory overtime would be unduly disruptive to Defendants operation.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

7. The Complaint fails to state a cause of action upon which relief may be granted.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

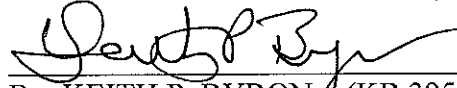
8. All Plaintiffs receive full payment for compensatory time accrued but not used on an annual basis. No Plaintiff has failed to receive full and complete payment for overtime paid as compensatory time.

WHEREFORE, Defendants, COUNTY OF DUTCHESS, THE DUTCHESS COUNTY SHERIFF'S DEPARTMENT OF DUTCHESS COUNTY, NEW YORK and ADRIAN H. ANDERSON, SHERIFF OF THE COUNTY OF DUTCHESS, NEW YORK, demands judgment dismissing the Complaint together with the attorney fees, costs and disbursements of this action.

Dated: Poughkeepsie, New York
May 15, 2008

Yours, etc.,

RONALD L. WOZNIAK, County Attorney



By: KEITH P. BYRON (KB 3954)

Senior Assistant County Attorney

Attorney for Defendants
Office & P.O. Address
County Office Building
22 Market Street
Poughkeepsie, NY 12601

TO: Gregory K. McGillivray, Esq.
Woodley & McGillivray
1125 15th Street, N.W.
Suite 400
Washington, DC 20005

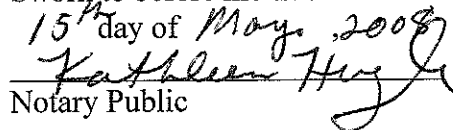
Andrew Quinn, Esq.
Quinn, Ferrante 7 Mellea
399 Knollwood Road
Suite 220
White Plains, NY 10603

STATE OF NEW YORK)
) SS:
COUNTY OF DUTCHESS)

KEITH P. BYRON, being sworn says: I am a Senior Assistant County Attorney for the COUNTY OF DUTCHESS, a municipal corporation, one of the parties to the action; that I have read the annexed ANSWER and know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged on information and belief, and as to those matter I believe them to be true. My belief, as to those matters therein not stated upon knowledge is based upon books, records and investigations made.


KEITH P. BYRON

Sworn to before me this

15th day of May, 2008

Notary Public

KATHLEEN HUGHES
Notary Public, State of New York
No. 01HU5015684
Qualified in Dutchess County
Commission Expires July 26, 2009